



542,590
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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
04/542,590	10/17/83	COOK	W 3/11/84

C. DAVID EMHARDT
WOODARD, WEIKART, EMHARDT & NAUGHTON
ONE INDIANA SQUARE, STE. 2600
INDIANAPOLIS, IN 46204

EXAMINER	
SHEIN, M	
ART UNIT	PAPER NUMBER
335	3
DATE MAILED:	03/20/84

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined Responsive to communication filed on _____ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892. 2. Notice re Patent Drawing, PTO-948.
3. Notice of Art Cited by Applicant, PTO-1449 4. Notice of informal Patent Application, Form PTO-152
5. Information on How to Effect Drawing Changes, PTO-1474 6. _____

Part II SUMMARY OF ACTION

1. Claims 1-14 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.

2. Claims _____ have been cancelled.

3. Claims _____ are allowed.

4. Claims 1-14 are rejected.

5. Claims _____ are objected to.

6. Claims _____ are subject to restriction or election requirement.

7. This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.

8. Allowable subject matter having been indicated, formal drawings are required in response to this Office action.

9. The corrected or substitute drawings have been received on _____. These drawings are acceptable; not acceptable (see explanation).

10. The proposed drawing correction and/or the proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been approved by the examiner. disapproved by the examiner (see explanation).

11. The proposed drawing correction, filed _____, has been approved. disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.

12. Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has been received not been received been filed in parent application, serial no. _____; filed on _____.

13. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. Other

1. 35 U.S.C. 101 reads as follows:

"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title".

Claims 1-9 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-9 of applicant's US Patent No. 4,436,092. This is a double patenting rejection.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10 and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Csapo.

3. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 12-14 are rejected under 35 U.S.C. 103 as being unpatentable over Csapo. The spatial relationship between the temperature sensor and the stimulus means as well as the use of multi-lumen catheters to implement said sensor and stimulus means would be considered obvious design choice capable of being made by one of ordinary skill in the art.

Art Unit 335

4. The additional art cited by the examiner have been included for their teachings in the art of physiologically regulated pace makers.

Any inquiry concerning this communication should be directed to Mitchell J. Shein at telephone number 703-557-3144.

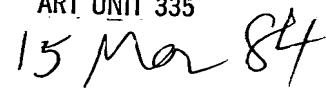

M. Shein:dg

703-557-3144

03-12-84


WILLIAM E. KAMM
PRIMARY EXAMINER

ART UNIT 335


15 Mar 84